

# SENATE JOURNAL OF THE IDAHO LEGISLATURE

SECOND REGULAR SESSION  
FIFTY-EIGHTH LEGISLATURE

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**EIGHTY-SECOND LEGISLATIVE DAY  
FRIDAY, MARCH 31, 2006**

Senate Chamber

President Risch called the Senate to order at 9:30 a.m.

Roll call showed all members present except Senators Marley and Sweet, absent and formally excused by the Chair; and Senator Cameron, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by Katie Twiggs, Page.

The Senate advanced to the Third Order of Business.

## **Reading and Correction of the Journal**

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 30, 2006, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

## **Petitions, Resolutions, and Memorials**

### **SCR 136**

#### **BY STATE AFFAIRS COMMITTEE**

##### **A CONCURRENT RESOLUTION**

STATING LEGISLATIVE FINDINGS AND REQUESTING THE IDAHO WATER RESOURCE BOARD TO PREPARE AND SUBMIT A COMPREHENSIVE AQUIFER MANAGEMENT PLAN FOR THE EASTERN SNAKE RIVER PLAIN AQUIFER FOR LEGISLATIVE REVIEW AND APPROVAL.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the extended drought, changes in irrigation practices and ground water pumping have resulted in reduced spring discharges and reach gains from the Eastern Snake River Plain Aquifer and areas of declining aquifer levels; and

WHEREAS, declining aquifer levels have resulted in

insufficient water supplies to satisfy existing beneficial uses; and  
WHEREAS, declining aquifer levels have lead to conflicts between holders of water rights diverting from surface and ground water; and

WHEREAS, the conflict between water users poses a significant threat to the state's economy; and

WHEREAS, the welfare of the people of the state of Idaho is dependent upon the management of the Eastern Snake River Plain Aquifer in accordance with state law; and

WHEREAS, the Idaho Legislature has enacted legislation to create water measurement districts for gathering and reporting of water diversion data; and

WHEREAS, the Idaho Legislature has enacted legislation authorizing the creation of ground water districts for the purpose of implementing mitigation plans; and

WHEREAS, the Idaho Department of Water Resources has expanded and created new water districts for water sources hydraulically connected to the Eastern Snake River Plain Aquifer for the purpose of conjunctively administering all surface and ground water rights diverting from the interconnected sources; and

WHEREAS, the Idaho Legislature provided funding to facilitate implementation of water supply projects through the Idaho Department of Commerce and to ground water users for implementation of the Sandy Pipeline Project in 2004; and

WHEREAS, the Idaho Legislature's Natural Resource Interim Committee in 2004 and 2005 sought resolution of the Eastern Snake River Plain Aquifer water supply conflicts and has provided support for voluntary mediation between affected parties; and

WHEREAS, Section 42-1734, Idaho Code, provides authority to the Idaho Water Resource Board to cooperate in water studies, planning and research; and

WHEREAS, the Idaho Water Resource Board prepared an inventory of data and information as part of the Board's comprehensive basin planning study of the Eastern Snake River Plain Aquifer and tributary basins entitled the "Resource Inventory Upper Snake River Basin," in 1998, which provides information for the development of a comprehensive aquifer management plan; and

WHEREAS, the state of Idaho has taken initial steps to address the Eastern Snake River Plain water supply conflict through funding and development of, among other things, a Conservation Reserve Enhancement Program; and

WHEREAS, the Idaho Legislature enacted Section 42-620, Idaho Code, in 2005, to provide for funding necessary to support and to expand the Eastern Snake River Plain monitoring and data gathering activities of the Idaho Department of Water Resources; and

WHEREAS, certain holders of surface and ground water rights have been engaged in good faith negotiations to develop a potential framework for resolution of the Eastern Snake River Plain surface/ground water rights conflict; and

WHEREAS, the Idaho Legislature is determined to facilitate and encourage a resolution of the surface/ground water rights conflict that respects existing water rights.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we request that the Idaho Water Resource Board expeditiously pursue, with support from the Idaho Department of Water Resources, development of a comprehensive aquifer management plan for the Eastern Snake River Plain Aquifer for submission to and approval by the Idaho Legislature.

BE IT FURTHER RESOLVED that the Idaho Water Resource Board receive public input regarding the development of goals, objectives and methods for management of the Eastern Snake River Plain Aquifer from affected water right holders, cities and counties, the general public and relevant state and federal agencies; and

BE IT FURTHER RESOLVED that the Idaho Water Resource Board is requested to report to the First Regular Session of the Fifty-ninth Idaho Legislature on the status of the development of the comprehensive Eastern Snake River Plain Aquifer management plan. The report should set forth a framework for the plan, including appropriate interim goals and objectives in accordance with state law, a method to fund implementation of the plan and a time schedule for finalization of the plan.

**SCR 136** was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

#### Reports of Standing Committees

March 31, 2006

The JUDICIARY AND RULES Committee reports that **S 1488, S 1489, S 1490**, and **SCR 135** have been correctly printed.

DARRINGTON, Chairman

**S 1488** and **S 1489** were referred to the Local Government and Taxation Committee.

**S 1490** was referred to the Finance Committee.

**SCR 135** was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

March 30, 2006

The JUDICIARY AND RULES Committee reports that **S 1367, S 1456, S 1458, S 1459, S 1460, S 1461, S 1463**, and **SCR 124** have been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled **S 1367, S 1456, S 1458, S 1459, S 1460, S 1461, S 1463**, and **SCR 124** and ordered them transmitted to the House for the signature of the Speaker.

March 30, 2006

The JUDICIARY AND RULES Committee reports that Enrolled **S 1266**, as amended, **S 1314**, as amended, **S 1327, S 1338, S 1339, S 1340**, as amended, **S 1343, S 1350**, as amended, **S 1356**, as amended, **S 1386**, as amended, **S 1388, S 1389**, as amended in the House, **S 1412**, as amended, **S 1414, S 1415, S 1423**, as amended, **S 1428, S 1454, S 1455**, and **S 1457** were delivered to the Office of the Governor at 2:35 p.m., March 30, 2006.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

March 30, 2006

The JUDICIARY AND RULES Committee reports that Enrolled **SCR 125, SCR 126, SCR 128, SCR 129, SCR 130, SJM 119**, and **SJM 120** were delivered to the Office of the Secretary of State at 9:40 a.m., March 30, 2006.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

March 31, 2006

The FINANCE Committee reports out **S 1490** with the recommendation that it do pass.

CAMERON, Chairman

**S 1490** was filed for second reading.

March 31, 2006

The STATE AFFAIRS Committee reports out **S 1482** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

BURTENSHAW, Chairman

There being no objection, **S 1482** was referred to the Fourteenth Order of Business, General Calendar.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

#### Messages from the Governor

March 30, 2006

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and am transmitting to the Secretary of State the following Senate Bills, to wit:

**S 1275, S 1295, S 1296, S 1297, S 1321, S 1331, S 1332**, as amended, **S 1334, S 1351, S 1352, S 1353, S 1373, S 1374, S 1379, S 1395**, as amended, **S 1397, S 1399, S 1400**, as amended, **S 1401, S 1403, S 1407, S 1409**, as amended, **S 1411, S 1413, S 1417, S 1442, S 1443, S 1444, S 1445, S 1446, S 1447**

Sincerely,  
/s/ Dirk Kempthorne  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Senate advanced to the Ninth Order of Business.

#### Messages from the House

March 30, 2006

Mr. President:

I transmit herewith **HCR 67, H 857, H 761**, as amended, **H 832**, as amended, **H 858**, and **H 853** which have passed the House.

JUKER, Chief Clerk

**HCR 67, H 857, H 761**, as amended, **H 832**, as amended, **H 858**, and **H 853** were filed for first reading.

March 30, 2006

Mr. President:

I return herewith **S 1370, S 1464, S 1465, S 1466, S 1467, S 1469, S 1427, S 1470, S 1471, S 1473, S 1474, S 1475, S 1476, S 1477, S 1478, S 1479, S 1480**, and **S 1481** which have passed the House.

JUKER, Chief Clerk

**S 1370, S 1464, S 1465, S 1466, S 1467, S 1469, S 1427, S 1470, S 1471, S 1473, S 1474, S 1475, S 1476, S 1477, S 1478, S 1479, S 1480**, and **S 1481** were referred to the Judiciary and Rules Committee for enrolling.

March 30, 2006

Mr. President:

I transmit herewith enrolled **HJM 22, HCR 62, H 819, H 754, H 756, H 757, H 726, H 765, H 630**, as amended, **H 817, H 818, H 826, H 827, H 828, H 663**, as amended, **H 705**, as amended, **H 735**, as amended, **H 758, H 731, H 784, H 829, H 830, H 831, H 750**, as amended, **H 763, H 796, H 764, H 728, H 780, H 781, H 474**, as amended, and **H 745** for the signature of the President.

JUKER, Chief Clerk

The President signed Enrolled **HJM 22, HCR 62, H 819, H 754, H 756, H 757, H 726, H 765, H 630**, as amended, **H 817, H 818, H 826, H 827, H 828, H 663**, as amended, **H 705**, as amended, **H 735**, as amended, **H 758, H 731, H 784, H 829, H 830, H 831, H 750**, as amended, **H 763, H 796, H 764, H 728, H 780, H 781, H 474**, as amended, and **H 745** and ordered them returned to the House.

March 30, 2006

Mr. President:

I return herewith **S 1425**, as amended in the House, which has passed the House.

JUKER, Chief Clerk

On request by Senator Darrington, granted by unanimous consent, **S 1425**, as amended in the House, was referred to the Tenth Order of Business, Motions and Resolutions, for consideration as to possible concurrence in the House amendments.

The Senate advanced to the Tenth Order of Business.

#### Motions and Resolutions

Senator Cameron was recorded present at this order of business.

The President announced the Education Committee report relative to the Gubernatorial appointment of Paul C. Agidius was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Schroeder, seconded by Senator Burkett, the Gubernatorial appointment of Paul C. Agidius as a member of the State Board of Education was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

On request by Senator Stegner, granted by unanimous consent, **HJM 25** retained its place on the calendar.

The President announced that **HCR 64** was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Pearce, seconded by Senator Stegner, **HCR 64** was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

The President announced that **HCR 65** was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Andreason, seconded by Senator Malepeai, **HCR 65** was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

The President announced that the House amendments to **S 1425**, as amended in the House, were before the Senate for consideration as to possible concurrence, the question being, "Shall the Senate concur in the House amendments to **S 1425**, as amended in the House?"

On request by Senator Darrington, granted by unanimous consent, the Senate concurred by voice vote in the House amendments to **S 1425**, as amended in the House.

**S 1425**, as amended in the House, was referred to the Judiciary and Rules Committee for engrossing.

The Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading and Reference of Bills,  
House Petitions, Resolutions, and Memorials**

**HCR 67**, by Ways and Means Committee, was introduced, read at length, and referred to the State Affairs Committee.

**H 857**, by Ways and Means Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

**H 761**, as amended, by State Affairs Committee, was introduced, read the first time at length, and referred to the Commerce and Human Resources Committee.

**H 832**, as amended, and **H 858**, by Ways and Means Committee, were introduced, read the first time at length, and referred to the Health and Welfare Committee.

**H 853**, by Ways and Means Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

The Senate advanced to the Twelfth Order of Business.

**Second Reading of Bills**

**H 834**, by State Affairs Committee, was read the second time at length and filed for third reading.

**S 1462**, by Judiciary and Rules Committee, was read the second time at length and filed for third reading.

**H 570**, as amended, by State Affairs Committee, was read the second time at length and filed for third reading.

**H 795**, by Ways and Means Committee, was read the second time at length and filed for third reading.

**SJR 108**, by State Affairs Committee, was read the second time at length and filed for third reading.

**S 1487**, by Finance Committee, was read the second time at length and filed for third reading.

**H 845**, **H 846**, **H 847**, and **H 848**, by Appropriations Committee, were read the second time at length and filed for third reading.

**H 841**, by Ways and Means Committee, was read the second time at length and filed for third reading.

**H 822**, **H 825**, and **H 753**, as amended, by State Affairs Committee, were read the second time at length and filed for third reading.

**H 820**, by Ways and Means Committee, was read the second time at length and filed for third reading.

**H 849**, **H 851**, and **H 852**, by Appropriations Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

**Third Reading of Bills**

**Suspension of Rules**

On request by Senator Stegner, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 834** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency, and **H 834** was read the third time at length, section by section, and put upon its final passage.

**H 834** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McGee arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Corder, Darrington, Fulcher, Gannon, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKenzie, Pearce, Richardson, Schroeder, Stegner, Stennett, Werk, Williams. Total - 30.

NAYS--None.

Absent and excused--Compton, Davis, Geddes, Marley, Sweet. Total - 5.

Total - 35.

Whereupon the President declared **H 834** passed, title was approved, and the bill ordered returned to the House.

**Suspension of Rules**

On request by Senator Stegner, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **S 1462** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency, and **S 1462** was read the third time at length, section by section, and put upon its final passage.

**S 1462** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Darrington arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Corder, Darrington, Fulcher, Gannon, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKenzie, Pearce, Richardson, Schroeder, Stegner, Stennett, Werk, Williams. Total - 30.

NAYS--None.

Absent and excused--Compton, Davis, Geddes, Marley, Sweet. Total - 5.

Total - 35.

Whereupon the President declared **S 1462** passed, title was approved, and the bill ordered transmitted to the House.

### Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 570**, as amended, were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency, and **H 570**, as amended, was read the third time at length, section by section, and put upon its final passage.

**H 570**, as amended, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Malepeai arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Corder, Darrington, Fulcher, Gannon, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKenzie, Pearce, Richardson, Schroeder, Stegner, Stennett, Werk, Williams. Total - 30.

NAYS--None.

Absent and excused--Compton, Davis, Geddes, Marley, Sweet. Total - 5.

Total - 35.

Whereupon the President declared **H 570**, as amended, passed, title was approved, and the bill ordered returned to the House.

### Suspension of Rules

On request by Senator Stegner, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 795** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency, and **H 795** was read the third time at length, section by section, and put upon its final passage.

**H 795** was read the third time at length, section by section, and placed before the Senate for final consideration. President Pro Tempore Geddes arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Langhorst, Little, Lodge, Malepeai, McGee, McKenzie, Pearce, Richardson, Schroeder, Stegner, Stennett, Werk, Williams. Total - 32.

NAYS--Keough. Total - 1.

Absent and excused--Marley, Sweet. Total - 2.

Total - 35.

Whereupon the President declared **H 795** passed, title was approved, and the bill ordered returned to the House.

### Suspension of Rules

On request by Senator Stegner, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **S 1487** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency, and **S 1487** was read the third time at length, section by section, and put upon its final passage.

**S 1487** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Cameron arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKenzie, Pearce, Richardson, Schroeder, Stegner, Stennett, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Marley, Sweet. Total - 2.

Total - 35.

Whereupon the President declared **S 1487** passed, title was approved, and the bill ordered transmitted to the House.

### Suspension of Rules

On request by Senator Stegner, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 846** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency, and **H 846** was read the third time at length, section by section, and put upon its final passage.

**H 846** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Keough arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hill, Jorgenson, Keough, Little, Lodge, McGee, McKenzie, Pearce, Richardson, Stegner, Williams. Total - 26.

NAYS--Burkett, Kelly, Langhorst, Malepeai, Marley, Schroeder, Stennett, Werk. Total - 8.

Absent and excused--Sweet. Total - 1.

Paired and voting included in roll call:

AYE - McKenzie            NAY - Marley

Total - 35.

Whereupon the President declared **H 846** passed, title was approved, and the bill ordered returned to the House.

#### **Suspension of Rules**

On request by Senator Stegner, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 847** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency, and **H 847** was read the third time at length, section by section, and put upon its final passage.

**H 847** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Cameron arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKenzie, Pearce, Richardson, Schroeder, Stegner, Stennett, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Marley, Sweet. Total - 2.

Total - 35.

Whereupon the President declared **H 847** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Schroeder, granted by unanimous consent, **H 841** was recommitted to the Resources and Environment Committee.

#### **Suspension of Rules**

On request by Senator Stegner, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 822** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency, and **H 822** was read the third time at length, section by section, and put upon its final passage.

**H 822** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Goedde arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKenzie, Pearce, Richardson, Schroeder, Stegner, Stennett, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Marley, Sweet. Total - 2.

Total - 35.

Whereupon the President declared **H 822** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

#### **Miscellaneous Business**

On motion by Senator Stegner, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:15 p.m. until the hour of 10 a.m., Monday, April 3, 2006.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary